

"(2) SPECIAL RULES

"(A) PER DIEM ETC. PAYMENTS PERMITTED.—A contract shall not fail to be described in subparagraph (A) or (B) of paragraph (1) by reason of payments being made on a per diem or other periodic basis without regard to the expenses incurred during the period to which the payments relate.

"(B) SPECIAL RULES RELATING TO MEDICARE

"(i) Paragraph (1)(B) shall not apply to expenses which are reimbursable under title XVIII of the Social Security Act only as a secondary payor.

"(ii) No provision of law shall be construed or applied so as to prohibit the offering of a qualified long-term care insurance contract on the basis that the contract coordinates its benefits with those provided under such title.

"(C) REFUNDS OF PREMIUMS

Paragraph (1)(F) shall not apply to any refund on the death of the insured or on a complete surrender or cancellation of the contract which cannot exceed the aggregate premiums paid under the contract. Any refund on a complete surrender or cancellation of the contract shall be includible in gross income to the extent that any deduction or exclusion was allowable with respect to the premiums.

"(c) QUALIFIED LONG-TERM CARE SERVICES.—For purposes of this section

"(1) IN GENERAL.—The term "qualified long-term care services" means necessary diagnostic, preventive, therapeutic, curing, treating, mitigating, and rehabilitative services, and maintenance or personal care services, which

"(A) are required by a chronically ill individual, and

"(B) are provided pursuant to a plan of care prescribed by a licensed health care practitioner.

"(2) CHRONICALLY ILL INDIVIDUAL

"(A) IN GENERAL.—The term "chronically ill individual" means any individual who has been certified by a licensed health care practitioner as

"(i) being unable to perform (without substantial assistance from another individual) at least 2 activities

of daily living for a period of at least 90 days due to a loss of functional capacity

"(ii) having a level of disability similar (as determined under regulations prescribed by the Secretary in consultation with the Secretary of Health and Human Services) to the level of disability described in clause (i) or

"(iii) requiring substantial supervision to protect such individual from threats to health and safety due to severe cognitive impairment

Such term shall not include any individual otherwise meeting the requirements of the preceding sentence unless within the preceding 12-month period a licensed health care practitioner has certified that such individual meets such requirements

"(B) ACTIVITIES OF DAILY LIVING. — For purposes of subparagraph (A) each of the following is an activity of daily living: